

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on December 17, 2003, and the references cited therewith.

Claims 72, 83, and 87 are amended. Claims 72-77 and 83-93 are pending in this application.

§112 Rejection of the Claims

Claim 87 was rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 87 has been amended to overcome the rejection.

§103 Rejection of the Claims

Claims 72-77 and 83-87 were rejected under 35 USC § 103(a) as being unpatentable over Rutten (U.S. Patent No. 6,148,238) in view of Rubin (U.S. Patent No. 5,476,502). Applicant notes that the Rutten reference was issued after the priority date of the present application, and Applicant reserves the right to swear behind the reference.

Claims 72-77

Applicant has amended claim 72 to better describe the subject matter recited by the claim. Applicant believes claim 72 is not obvious in view of the cited references since, even if combined, the combination would not include each limitation recited in the claim. For instance, a method including positioning the defibrillation electrode tip within an apex of a ventricle of a heart and positioning the at least one conductive tine is also within the ventricle.

Moreover, Applicant believes there is no suggestion to combine the references as suggested by the Office Action.

Claims 73-77 include each limitation of parent claim 72 and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 83-87

Applicant has amended claim 83 to better describe the subject matter recited by the claim. Applicant believes claim 83 is not obvious in view of the cited references since, even if combined, the combination would not include each limitation recited in the claim. For instance, a method including positioning the defibrillation electrode at an apex of a ventricle of a heart such that the conductive tine is within the ventricle.

Claims 84-87 include each limitation of parent claim 83 and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3267 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17 day of March, 2004.

Paula Suchy

Name

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